

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

US FOODS, INC.,

Plaintiff,

v.

MICHAEL J. NOBLE, et al.,

Defendants.

Civil Action No. 1:13-cv-03640

**DEFENDANT NOBLE'S RESPONSE TO PLAINTIFF'S MOTION
TO EXPEDITE DISCOVERY**

Defendant Michael J. Noble (“Noble” or “Defendant”) responds to the Motion for Expedited Discovery filed by Plaintiff U.S. Food, Inc. (“US Foods” or “Plaintiff”) by showing the motion should be denied for a number of reasons.

First, this Court lacks subject matter jurisdiction of the relief sought in this case, including the request for expedited discovery, because, as Noble will soon point out in a Rule 12(b)(2) motion to dismiss or stay for lack of jurisdiction, the parties are bound by a mandatory arbitration provision that covers all such matters and requires this Court to defer the discovery issues at hand to an arbitrator. The arbitrator, and not this Court, should determine whether interim relief is available. Further, Defendants cannot meet the diversity threshold of \$75,000 because this Court cannot award damages in the face of a mandatory arbitration like here.

Second, even if the Court had jurisdiction, US Foods has not offered any valid or compelling reason why the discovery orders it seeks must be obtained on an “emergency” basis, rather than in the normal course of the case. The only reason for that “emergency” is to harass, intimidate and cause Noble, who is an Arizona resident, to incur attorney fees and costs to defend himself.

Plaintiff’s Motion for Expedited Discovery should be denied for these and other reasons, as further set forth and supported by the Memorandum and Proposed Order submitted herewith.

Respectfully submitted,

June 5, 2013

/s Jeffrey A. Silence

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on June 5, 2013, he caused a true and correct copy of Defendant’s Response Motion to be served by electronic mail and hand delivery on the following:

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_____ /s/ Jeffrey A. Silence _____